

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SALZGITTER MANNESEMAN
INTERNATIONAL USA, INC.
Plaintiff,

V.

M/V ATLANTIC DREAM, her engines,
tackle, boilers, etc., *in rem*

V.

ATLANTIC RO RO CARRIERS OF
TEXAS, INC., JSC BALTIC MERCUR,
ATLANTIC RO RO CARRIERS, INC
ATLANTIC PROJECT SHIPPING, LTD.
AND LUMAR SUBSIDIARY CO.
Defendants.

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C.A. NO. \_\_\_\_\_  
Admiralty Rule 9(h)

## COMPLAINT

1. Plaintiff, **Salzgitter Mannesmann International USA, Inc.** (hereafter also “Salzgitter” or “Plaintiff” ) by its attorneys, Hill Rivkins LLP, complaining of the above named vessel and defendants (collectively “Defendants”), and alleges upon information and belief:

## A.

2. This is an admiralty or maritime claim within the meaning of 28 U.S.C. § 1333 and Rule 9(h) of the Federal Rules of Civil Procedure, or pursuant to 9 U.S.C.A. § 8, preservation of *in rem* security for arbitration.

**B.**

3. At and during all the times hereinafter mentioned, Salzgitter was the consignee and owner of the cargo in question and brings this action on its own behalf and on behalf

of all who may become interested in the cargo. Salzgitter had and now has the legal status and principal office and place of business stated in Schedule A attached.

**C.**

4. At and during all the times hereinafter mentioned, Defendants had and now have the legal status and offices and places of business stated in Schedule A. They were, and now are, engaged in business as common carriers of merchandise by water for hire, and owned, operated, managed, chartered and controlled the above-named vessel which now is, or will be, within the jurisdiction of this Court during the pendency of this action. Issuance and delivery of process *in rem* was accomplished on or before April 5, 2012 upon arrival of the vessel in the jurisdiction of this court, resulting in issuance of a Letter of Undertaking, conceding *in rem* jurisdiction over the M/V Atlantic Dream in the U.S. District Court for the Southern District of Texas.

**D.**

**COUNT 1 – CARRIAGE OF GOODS BY SEA ACT**

5. On or about December 30, 2011, at St. Petersburg, Ukraine, the M/V Atlantic Dream and Defendants received, in good order and condition, the shipment described in Schedule A, which the vessel and Defendants accepted and agreed to transport for certain consideration to the Port of Houston, Texas.

**E.**

6. Thereafter, the vessel arrived at the Port of Houston, where the cargo was found damaged by rust and physically damaged. On information and belief, Defendants breached, failed and violated their duties and obligations as common carriers and were otherwise at fault.

**F.**  
**COUNT 2 – BAILMENT**

7. Plaintiff further alleges, in the alternative and without waiving the above cause of action, that all Defendants were bailees of Plaintiff's cargo described in Schedule A. Defendants delivered the cargo described in Schedule A in a damaged condition which did not exist at the time of Plaintiff's/bailor's delivery to the bailee as described in Schedule A. Defendants breached their duties and obligations as bailees and were negligent.

**G.**

8. Plaintiff was the shipper, consignee and/or owner of the shipment and brings this action on its own behalf and, as agent and trustee, on behalf of and for the interest of all parties who may be or become interested in the shipment, as their respective interests may ultimately appear, and Plaintiff is entitled to maintain this action.

**H.**

9. Plaintiff has duly performed all duties and obligations on its part to be performed.

**I.**

10. By reason of the above-stated premises, Plaintiff has sustained damages, as nearly as same can now be estimated, no part of which has been paid although duly demanded, in the amount of TWO HUNDRED FORTY FOUR THOUSAND THREE HUNDRED SIXTY SIX and 85/100 DOLLARS (\$244,366.85).


**J.**

11. All and singular the premises are true and within the admiralty, maritime, and pendent jurisdiction of the United States and of this Honorable Court.

Wherefore: Plaintiff prays:

1. That summons in due form of law may issue against defendants;
2. That a judgment may be entered in favor of plaintiff against defendants, one or more of them, for the amount of plaintiff's damages together with interest and the costs and disbursements of this action;
3. That process in due form of law according to the practice of this court in causes of admiralty or maritime jurisdiction may issue against said the vessel, her engines, etc., and that all persons having or claiming any interest therein be cited to appear and answer under oath all and singular the matters stated, and this court will be pleased to pronounce a judgment in favor of plaintiff for damages together with interest, costs and disbursements, and the motor vessel may be condemned and sold to pay therefor; and
4. That this court will grant to plaintiff such other and further relief as may be just and proper.

Respectfully submitted,



DANA K. MARTIN

Texas Bar No. 13057830

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ATTORNEYS FOR PLAINTIFF  
SALZGITTER MANNESMANN  
INTERNATIONAL USA, INC.

VERIFICATION

THE STATE OF TEXAS     \*  
                                      \*  
COUNTY OF HARRIS     \*

Dana K. Martin, being duly sworn, deposes and says:

I am an attorney and member of the firm of Hill Rivkins LLP, attorneys for Plaintiff. I am over twenty-one (21) years of age and fully competent to make this Verification. I have read the foregoing Complaint and know its contents. The Complaint is true to my knowledge, except as to the matters stated in the Complaint to be based on information and belief, and as to those matters, I believe them to be true.

The source of my information and the grounds for my belief as to those matters stated in the Complaint, to be alleged on information and belief, are documents and records in my files.



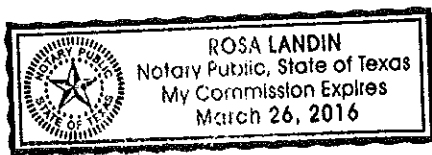
Dana K. Martin

Subscribed and sworn to before me, the undersigned authority, this the 5th day of October, 2012.



Notary Public, State of Texas

My Commission Expires 3-26-2016



**SCHEDULE A**

**LEGAL STATUS AND PLACE OF BUSINESS OF PARTIES**

Plaintiff, **Salzgitter Mannesmann International USA, Inc.**, was and now is a Texas corporation with an office and place of business at 1770 St. James Place, Houston, TX 77056

The **M/V ATLANTIC DREAM**, is a general cargo vessel sailing under the flag of Malta. The vessel was built in 1988, and its gross tonnage is 15,893 metric tons. Its IMO number is 8811352.

Defendant, JSC BALTIC MERCUR ("**Mercur**"), was and now is a Russian corporation, or similar entity, with power to sue and be sued, which regularly does business in Texas and/or the United States as a common carrier of goods, which does not maintain a designated agent on whom service may be made in Texas, and thus may be served through F.R.C.P. 4(k)2, or through the Secretary of State of Texas under the Texas Long-Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.044 et. seq., in care of its home office at:

Business Center "Sheremetev"  
47 Stachek Ave., Suite 408  
St. Petersburg, Russia

Defendant, ATLANTIC RO RO CARRIERS, INC. ("**ARRC**"), was and now is a Russian corporation, or similar entity, with power to sue and be sued, which regularly does business in Texas and/or the United States as a common carrier of goods, which does not maintain a designated agent on whom service may be made in Texas, and thus may be served through F.R.C.P. 4(k)2, or through the Secretary of State of Texas under the Texas Long-Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.044 et. seq., in care of its home office at:

20/7 Chaplygina Str.,  
Business Centre Chaplygina House, 7<sup>th</sup> Floor  
Moscow, Russia

Or through its US office at:

95 River Street, 3<sup>rd</sup> Floor  
Hoboken, NJ 07030

Defendant, ATLANTIC PROJECT SHIPPING, LTD. ("**APSL**"), was and now is a Russian corporation, or similar entity, with power to sue and be sued, which regularly does business in Texas and/or the United States as a common carrier of goods, which does not maintain a designated agent on whom service may be made in Texas, and thus may be served through F.R.C.P. 4(k)2, or through the Secretary of State of Texas under

the Texas Long-Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.044 et. seq., in care of its home office at:

c/o Subsidiary Company Lumar  
Office 297 ul Srednefontanskaya 19B  
Odessa, Ukraine

Or through its attorney in this case:

Kirk Lyons, Esq.  
Lyons & Flood LLP  
65 West 36<sup>th</sup> Street, 7<sup>th</sup> Floor  
New York, NY 10018

Defendant, Lumar Subsidiary Co.. (“LSC”), was and now is a Ukrainian corporation, or similar entity, with power to sue and be sued, which regularly does business in Texas and/or the United States as a common carrier of goods, which does not maintain a designated agent on whom service may be made in Texas, and thus may be served through F.R.C.P. 4(k)2, or through the Secretary of State of Texas under the Texas Long-Arm Statute, Tex. Civ. Prac. & Rem. Code § 17.044 et. seq., in care of its home office at:

Office 297, ul Srednefontanskaya 19B  
Odessa, Ukraine

Or through its attorney in this case:

Kirk Lyons, Esq.  
Lyons & Flood LLP  
65 West 36<sup>th</sup> Street, 7<sup>th</sup> Floor  
New York, NY 10018

Defendant, ATLANTIC RO RO CARRIERS OF TEXAS INC. (“ARRT”) was and now is a Delaware Corporation, or similar entity, with a certificate of authority to do business in the State of Texas, with power to sue and be sued, which regularly does business in Texas and/or the United States as a common carrier of goods, which does maintain a designated agent in Texas upon whom service may be made, and thus may be served through its Texas registered agent, or its local office:

CT Corporation System  
350 N. St. Paul Street  
Dallas, Texas 75201

Or its Houston area office:

515 N. Sam Houston Parkway East. Suite 490  
Houston, TX 77060

**DESCRIPTION OF SHIPMENT**

|                           |                                              |
|---------------------------|----------------------------------------------|
| Vessel:                   | M/V ATLANTIC DREAM                           |
| Date of Shipment:         | December 30, 2011                            |
| Port of Shipment:         | St. Petersburg, Ukraine                      |
| Port of Discharge:        | Houston, Texas                               |
| Shipper:                  | Severstal Export GmbH                        |
| Consignee:                | Salzgitter Mannesmann International USA, Inc |
| Description of Shipment:  | 3076.837 MT of hot rolled Steel Plates       |
| Nature of Loss or Damage: | Rust Contamination and Physical damage       |
| Amount:                   | \$244,366.85                                 |